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FILED
WILLIAMSPORT, PA

JAN 28 2002

MARY E. DAVIS, CLERK
Per _____

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,
Plaintiff

v.

JAKE MENDEZ;
JESUS "JESSE" GONZALEZ;
JAMES "JIMMY" SCARBOROUGH; and
KELLY M. KEISER,
Defendants

:
:
:
: Civil No. 1:CV-00-2143
: (McClure, J.)
: (Blewitt, M.J.)
:
:
:
:

EXHIBIT TO DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION FOR RELIEF FROM THE APRIL 13, 2001 ORDER

MARTIN C. CARLSON
United States Attorney

JOSEPH J. TERZ
Assistant U.S. Attorney
MICHELE E. LINCALIS
Paralegal Specialist
316 Federal Building
240 West Third Street
Williamsport, PA 17703

Date: January 28, 2001



UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,	:	CIVIL ACTION NO. 1:CV-00-2143
	:	
Plaintiff	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
JAKE MENDEZ, Warden et al.,	:	
	:	
Defendants	:	

DECLARATION OF ALICIA VASQUEZ

I, Alicia Vasquez, do declare and state as follows:

1. I am an Attorney Advisor at the United States Department of Justice, Federal Bureau of Prisons (BOP), Federal Correctional Complex, Allenwood, Pennsylvania. I have been employed with the BOP since August 2000. As a result of my position, I have access to Bureau of Prisons' files, including computer files maintained in the ordinary course of business on inmates incarcerated at FCC Allenwood.
2. I have reviewed the Motion for Preliminary Injunction filed by the Plaintiff, inmate John Kenney, Federal Register Number 05238-041, in which he seeks placement in general population.
3. Attached hereto as Attachment 1 is a true and correct copy of the Inmate Discipline Data Chronological Disciplinary

000001

Record information for the Plaintiff printed from the Bureau of Prisons' SENTRY computer system. This attachment shows that on September 29, 1999, the Plaintiff incurred an Incident Report in violation of Code 101, Assaulting with Serious Injury. On December 7, 1999, the Plaintiff received the following sanctions from the Discipline Hearing Officer: disallowance of 40 days of Good Conduct Time, 60 days of Disciplinary Segregation, Loss of Commissary privileges 120 days, Loss of phone privileges 120 days, Loss of visiting privileges 120 days, as well as a disciplinary transfer.

4. Attached hereto as Attachment 2 is a true and correct copy of the Administrative Detention Order for the Plaintiff dated March 12, 2001. This document shows that the Plaintiff is being held in Administrative Detention as a writ return pending Reclassification. This document indicates that the Plaintiff received a copy of the Administrative Detention Order on March 12, 2001, 5:30 p.m.

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I certify that the documents attached to this declaration are true and correct copies of documents kept in the ordinary course of business by the Federal Bureau of Prisons. I further declare under penalty of perjury in accordance with the provisions of 28 U.S.C. § 1746 that the above is accurate to the best of my knowledge and belief.

Alicia Vasquez

Alicia Vasquez

Attorney Advisor

11/5/01

Date

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Kenney v. Mendez et al
Civil No. 1: CV-00-2143
Middle District of Pennsylvania

Declaration of Alicia Vasquez

Attachment 1.

000004

ALFLJ * INMATE DISCIPLINE DATA * 11-02-2001
PAGE 001 * CHRONOLOGICAL DISCIPLINARY RECORD * 13:20:38

REGISTER NO: 05238-041 NAME.: KENNEY, JOHN CHARLES
FUNCTION...: PRT FORMAT: CHRONO LIMIT TO MOS PRIOR TO 11-02-2001

REPORT NUMBER/STATUS.: 757311 - SANCTIONED INCIDENT DATE/TIME: 02-21-2000 1621
DHO HEARING DATE/TIME: 03-14-2000 0945
FACL/CHAIRPERSON.....: ALP/CERNEY
REPORT REMARKS.....: DENIES PUSHING DURESS ALARM
HEARING IS ALSO BASIS FOR EXECUTION OF DS SUSPENDED 02-22-2000 0950
317 FAILING TO FOLLOW SAFETY REGS - FREQ: 2
DIS GCT / 13 DAYS / CS
COMP:010 LAW:S
DS / 15 DAYS / CS
COMP: LAW:

REPORT NUMBER/STATUS.: 754748 - SANCTIONED INCIDENT DATE/TIME: 02-12-2000 2015
DHO HEARING DATE/TIME: 02-22-2000 0950
FACL/CHAIRPERSON.....: ALP/CERNEY
REPORT REMARKS.....: DENIES
203 THREATENING BODILY HARM - FREQ: 1 ATI: IN1
DIS GCT / 14 DAYS / CS
COMP:010 LAW:S
DS / 30 DAYS / CS / SUSPENDED 180 DAYS
EXECUTED BASED ON HEARING OF 03-14-2000 0945
COMP: LAW: PENDING CLEAR CONDUCT
LP PHONE / 60 DAYS / CS
COMP: LAW: THROUGH 06-03-2000

REPORT NUMBER/STATUS.: 754693 - SANCTIONED INCIDENT DATE/TIME: 02-12-2000 1955
DHO HEARING DATE/TIME: 02-22-2000 0940
FACL/CHAIRPERSON.....: ALP/CERNEY
REPORT REMARKS.....: DENIES
317 FAILING TO FOLLOW SAFETY REGS - FREQ: 1
DIS GCT / 14 DAYS / CS
COMP:010 LAW:S
LP COMM / 60 DAYS / CS
COMP: LAW: THROUGH 06-03-2000

REPORT NUMBER/STATUS.: 718283 - SANCTIONED INCIDENT DATE/TIME: 09-29-1999 1250
DHO HEARING DATE/TIME: 12-07-1999 0900
FACL/CHAIRPERSON.....: ALP/CERNEY
REPORT REMARKS.....: INMATE WAIVED APPEARANCE AT HEARING.
101A ASSAULTING WITH SERIOUS INJURY - FREQ: 1 ATI: SF3 RFP: A
DIS GCT / 40 DAYS / CS
COMP:010 LAW:S
DS / 60 DAYS / CS
COMP: LAW:

G0002 MORE PAGES TO FOLLOW . . .

000005

ALFLJ * INMATE DISCIPLINE DATA * 11-02-2001
 PAGE 002 * CHRONOLOGICAL DISCIPLINARY RECORD * 13:20:38

REGISTER NO: 05238-041 NAME...: KENNEY, JOHN CHARLES
 FUNCTION...: PRT FORMAT: CHRONO LIMIT TO MOS PRIOR TO 11-02-2001

DHO HEARING DATE/TIME: 12-07-1999 0900 REPORT 718283 CONTINUED

LP COMM / 120 DAYS / CS
 COMP: LAW: CONCLUDING 4/5/2000.
 LP PHONE / 120 DAYS / CS
 COMP: LAW: CONCLUDING 4/5/2000.
 LP VISIT / 120 DAYS / CS
 COMP: LAW: CONCLUDING 4/5/2000.
 TRANSFER / CS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 730290 - SANCTIONED INCIDENT DATE/TIME: 11-13-1999 1115
 DHO HEARING DATE/TIME: 11-30-1999 0845
 FACL/CHAIRPERSON.....: ALP/CERNEY
 REPORT REMARKS.....: INMATE ADMITS TO REFUSING ORDER TO GIVE LUNCH TRAYS TO
 THE OFFICER.

307 REFUSING TO OBEY AN ORDER - FREQ: 1
 DIS GCT / 7 DAYS / CS
 COMP:010 LAW:S
 DS / 15 DAYS / CS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 728688 - SANCTIONED INCIDENT DATE/TIME: 11-08-1999 0950
 DHO HEARING DATE/TIME: 11-30-1999 0840
 FACL/CHAIRPERSON.....: ALP/CERNEY
 REPORT REMARKS.....: INMATE DENIES CHARGES - STATED HE WOULD CUFF UP, BUT
 WOULD NOT TAKE A CELLIE.

307 REFUSING TO OBEY AN ORDER - FREQ: 1
 DIS GCT / 7 DAYS / CS
 COMP:010 LAW:S
 DS / 15 DAYS / CS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 659108 - SANCTIONED INCIDENT DATE/TIME: 02-17-1999 1550
 UDC HEARING DATE/TIME: 02-23-1999 1345
 FACL/UDC/CHAIRPERSON.: ALP/III/GONZALEZ
 REPORT REMARKS.....: INMATE ADMITTED TO THE CHARGE.

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 1
 LP COMM / 30 DAYS / CS
 COMP: LAW: 30 DAYS LOSS OF COMMISSARY PRIVILEGES.

 REPORT NUMBER/STATUS.: 659832 - SANCTIONED INCIDENT DATE/TIME: 02-16-1999 2245
 UDC HEARING DATE/TIME: 02-23-1999 1330
 FACL/UDC/CHAIRPERSON.: ALP/III/GONZALEZ
 REPORT REMARKS.....: INMATE ADMITTED TO THE CHARGE.

G0002 MORE PAGES TO FOLLOW . . .

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ALFLJ * INMATE DISCIPLINE DATA * 11-02-2001
 PAGE 003 * CHRONOLOGICAL DISCIPLINARY RECORD * 13:20:38

REGISTER NO: 05238-041 NAME.: KENNEY, JOHN CHARLES
 FUNCTION...: PRT FORMAT: CHRONO LIMIT TO MOS PRIOR TO 11-02-2001

UDC HEARING DATE/TIME: 02-23-1999 1330 REPORT 659832 CONTINUED

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 1
 LP COMM / 30 DAYS / CS
 COMP: LAW: 30 DAYS LOSS OF COMMISSARY PRIVILEGES.

 REPORT NUMBER/STATUS.: 333152 - SANCTIONED INCIDENT DATE/TIME: 07-25-1995 1330
 DHO HEARING DATE/TIME: 08-22-1995 0915

FACL/CHAIRPERSON.....: LOM/BAKER J
 REPORT REMARKS.....: INMATE DENIED POSSESSING THE WEAPON

104 POSSESSING A DANGEROUS WEAPON - FREQ: 1
 DS / 28 DAYS / CS
 COMP: LAW: TIME SERVED
 DS / 32 DAYS / CS / SUSPENDED 180 DAYS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 246444 - SANCTIONED INCIDENT DATE/TIME: 08-04-1994 0850
 DHO HEARING DATE/TIME: 08-16-1994 0934

FACL/CHAIRPERSON.....: LVN/GEOUGE, E.
 REPORT REMARKS.....: INMATE GUILTY OF CODE 306.

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 3
 DIS GCT / 14 DAYS / CS
 COMP: LAW:
 DS / 30 DAYS / CS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 188329 - SANCTIONED INCIDENT DATE/TIME: 11-22-1993 0800
 DHO HEARING DATE/TIME: 03-29-1994 1025

FACL/CHAIRPERSON.....: LVN/GEOUGE, E.
 REPORT REMARKS.....: INMATE FOUND GUILTY OF CODE 306.

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 3
 DIS GCT / 27 DAYS / CS
 COMP: LAW:
 DS / 30 DAYS / CS
 COMP: LAW:

 REPORT NUMBER/STATUS.: 178821 - SANCTIONED INCIDENT DATE/TIME: 10-07-1993 2100
 DHO HEARING DATE/TIME: 10-19-1993 1000

FACL/CHAIRPERSON.....: LVN/GEOUGE, E.
 REPORT REMARKS.....: INMATE GUILTY OF CODE 306.

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 2
 DIS GCT / 14 DAYS / CS
 COMP: LAW:
 DS / 21 DAYS / CS
 COMP: LAW:

G0002 MORE PAGES TO FOLLOW . . .

000007

ALFLJ * INMATE DISCIPLINE DATA * 11-02-2001
PAGE 004 OF 004 * CHRONOLOGICAL DISCIPLINARY RECORD * 13:20:38

REGISTER NO: 05238-041 NAME...: KENNEY, JOHN CHARLES
FUNCTION...: PRT FORMAT: CHRONO LIMIT TO MOS PRIOR TO 11-02-2001

REPORT NUMBER/STATUS.: 153836 - SANCTIONED INCIDENT DATE/TIME: 06-09-1993 1100
DHO HEARING DATE/TIME: 10-14-1993 1030
FACL/CHAIRPERSON.....: LVN/GEOUGE, E.
REPORT REMARKS.....: INMATE GUILTY OF CODE 307.

307 REFUSING TO OBEY AN ORDER - FREQ: 1
DIS GCT / 14 DAYS / CS
COMP: LAW:
DS / 15 DAYS / CS
COMP: LAW:

REPORT NUMBER/STATUS.: 152985 - SANCTIONED INCIDENT DATE/TIME: 06-04-1993 1535
DHO HEARING DATE/TIME: 06-29-1993 0950
FACL/CHAIRPERSON.....: LVN/GEOUGE, E.
REPORT REMARKS.....: INMATE GUILTY OF CODE 203/312/306.

203 THREATENING BODILY HARM - FREQ: 1 ATI: ???
DIS GCT / 27 DAYS / CS
COMP: LAW:
DS / 30 DAYS / CS
COMP: LAW:

306 REFUSING WORK/PGM ASSIGNMENT - FREQ: 1
DIS GCT / 14 DAYS / CS
COMP: LAW:
DS / 15 DAYS / CS
COMP: LAW:

312 BEING INSOLENT TO STAFF MEMBER - FREQ: 1
DIS GCT / 14 DAYS / CS
COMP: LAW:
DS / 15 DAYS / CS
COMP: LAW:

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

000008

Kenney v. Mendez et al
Civil No. 1: CV-00-2143
Middle District of Pennsylvania

Declaration of Alicia Vasquez

Attachment 2

BP-S308.052 ADMINISTRATIVE ATTENTION ORDER CDFRM078
MAY 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

USP Allenwood, PA
InstitutionDate/Time: March 12, 2001 5:30 P.M.
Unit - 3B

TO : Special Housing Unit Officer

FROM : M. Luna, Lieutenant (Name/Title)

SUBJECT : Placement of Kenney Reg. No. 05238-041, in Administrative Detention

- _____ (a) Is pending a hearing for a violation of Bureau regulations;
 _____ (b) Is pending investigation of a violation of Bureau regulations;
 _____ (c) Is pending investigation or trial for a criminal act;
 _____ (d) Is to be admitted to Administrative Detention

_____ (1) Since the inmate has requested admission for protection;

I hereby request placement in Administrative Detention for my own protection.

Inmate Signature/Register No.: _____

Staff Witness Printed Name Signature: _____

_____ (2) Since a serious threat exists to individual's safety as perceived by staff, although person has not requested admission; referral of the necessary information will be forwarded to the UDC/DHO for appropriate hearing.

_____ (e) Is pending transfer or is in holdover status during transfer.

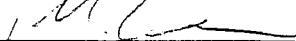
XXXXX (f) Is pending classification; or

_____ (g) Is terminating confinement in Disciplinary Segregation and has been ordered into Administrative Detention by the Warden's designee.

It is this officer's decision based on all the circumstances that the above named inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because*

Inmate Kenney is being placed in Administrative Detention as a Writ return pending Re-Classification.

Therefore, the above named inmate is to be placed in Administrative Detention until further notice. The inmate received a copy of this Order on (date / time)
March 12, 2001 5:30 P.M.

Staff Witness Signature/Printed Name M. Catino  Date March 12, 2001

*In the case of DHO action, reference to that order is sufficient. In other cases, the officer will make an independent review and decision, which is documented here.

Record Copy - Inmate Concerned (not necessary if placement is a result of holdover status); Copy - Captain; Copy - Unit Manager; Copy - Operation Supervisor - Administrative Detention Unit; Copy - Central File
 (This form may be replicated via WP)

Replaces BP-308(52) of JAN 88

000010

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,	:
Plaintiff	:
	:
v.	: Civil No. 1:CV-00-2143
	: (Rambo, J.)
JAKE MENDEZ;	: (Blewitt, M.J.)
JESUS "JESSE" GONZALEZ;	:
JAMES "JIMMY" SCARBOROUGH; and	:
KELLY M. KEISER,	:
Defendants	:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

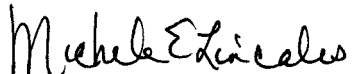
That this 28th day of January 2002, she served a copy of the attached

EXHIBIT TO DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION FOR RELIEF FROM THE APRIL 13, 2001 ORDER

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

ADDRESSEE:

John Charles Kenney
Reg. No. 05238-041
U.S. Penitentiary
P.O. Box 3000
White Deer, PA 17887


MICHELE E. LINCALIS
Paralegal Specialist